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HIGH COURT OF JUDICATURE CHHATTISGARH: BILASPUR

SINGLE BENCH : HON'BLE SHRI S.R. NAYAK, CJ

WRIT PETITION NO. 3451 OF 2006

PETITIONER

Banta Singh, S/o Bhag Singh,
Aged about 75 years, R/o Telibandha,
Raipur (C.G.)

VERSUS

RESPONDENTS

1. State of Chhattisgarh,
Through the Secretary, Revenue,
Mantralaya, D.K.S. Bhawan,
Raipur.
2. The Collector, Mahasamund
(C.G.)
3. The Nayab Tahsildar, Bagbahara,
(C.G.)

Present: Shri Ashok Soni, learned counsel for the petitioner.
Shri Yashwant Singh, learned G.A. for the State.

ORAL ORDER

(Passed on 18TH July, 2006)

The petitioner who is an Ex-Service man having 5 acres of land made an application to the Collector, Mahasamund, the 2nd respondent herein, under Section 165 (7) of Chhattisgarh Land Revenue Code for permission to alienate two acres of land out of the said five acres of land. That application has been rejected by the 3rd respondent by order (Annexure-P/1) dated 19.01.2006. I have perused the impugned order. The 2nd respondent summarily rejected the application of the petitioner vide his order dated 19.01.2006 on the basis of a report submitted by the Naib Tahsildar, Bagbahara, the 3rd respondent herein. It is expected that a statutory authority like the 2nd respondent while exercising the power conferred under the statute has to exercise the power reasonably, fairly and not arbitrarily. It is also expected of such authority to give reasons in

support of his decision, because, his decision is liable to be reviewed by the Constitution Court under Article 226. If the reasons are not disclosed, it will be rather difficult for the Court to appreciate what factors and reasons weighed with the statutory authority in making the decision. Compulsion to disclose reason will also avoid arbitrary exercise of the power a statutory authority.

(2) It was stated at the Bar that the petitioner is very much aged now and his children are well settled and therefore, they are not dependent upon the five acres of land assigned to the petitioner for their livelihood and that is the reason why the petitioner wants to alienate two acres out of five acres of land to discharge his loan liability incurred by him. In such a situation, the District Collector should have applied his mind and passed appropriate order. In that view of the matter, I allow this writ petition and set-aside the impugned order of the 2nd respondent. The 2nd respondent is directed to consider the application of the petitioner *de novo* and dispose of the same by a reasoned order within a period of two months from the date of receipt of a copy of this order. No costs.

Sd/-
Chief Justice